

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JAJUAN ANTHONY BROWN
and DESTINY ANDREA BROWN, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

DENA ANN BROWN,

Respondent,

and

PATRICK LEONARD SALTER,

Respondent-Appellant.

UNPUBLISHED

May 21, 2009

No. 289455

Wayne Circuit Court

Family Division

LC No. 07-467965-NA

Before: Fitzgerald, P.J., and Talbot and Shapiro, JJ.

MEMORANDUM.

Respondent Patrick Salter appeals as of right from a circuit court order terminating his parental rights to the minor children pursuant to MCL 712A.19b(3)(c)(i)[conditions that led to the adjudication continue to exist], (g) [failure to provide proper care or custody], (h) [parent's imprisonment will deprive the child of a normal home for more than two years], (j) [the child is likely to be harmed if returned to the parent's home], (k)(i) [abandonment of a young child] and (n)(i) [the parent was convicted of second-degree murder and the court determines that termination of parental rights is in the child's best interests because continuing the parent-child relationship would be harmful to the child]. We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

Respondent argues that termination of his parental rights was improper because petitioner did not make reasonable efforts to provide him with services to assist with reunification. However, a respondent's arguments concerning the adequacy and reasonableness of proffered services ultimately relate to the sufficiency of the evidence in support of a statutory ground for termination, *In re Fried*, 266 Mich App 535, 541; 702 NW2d 192 (2005), and respondent does not specifically challenge any of the statutory grounds for termination.

Generally, when a child is removed from a parent's custody, petitioner is required to make reasonable efforts to rectify the conditions that caused the child's removal by adopting a service plan if reunification is the goal. MCL 712A.18f(1), (2), and (4); MCL 712A.19a(2). In such a case, the service plan must include a schedule of services to be provided to the parent, child, and foster parent "to facilitate the child's return to his or her home." MCL 712A.18f(3)(d). If the respondent is available and willing and able to accept services designed to rectify the problems that led to the child becoming a temporary court ward, the petitioner's failure or refusal to provide such services can preclude findings that the conditions that led to the adjudication continued to exist, or that the respondent is unlikely to rectify those conditions or be able to provide proper care and custody within a reasonable time. *In re Newman*, 189 Mich App 61, 66-68; 472 NW2d 38 (1991).

In this case, petitioner prepared a service plan for respondent, which it sent to him by mail. When the service plan was returned as undeliverable, petitioner made no further attempts to contact respondent or provide him with a copy of the service plan. However, even if petitioner's efforts at reunification are determined not to have been reasonable, the record establishes that there was nothing reasonable that petitioner could have done to assist respondent with reunification. Respondent was incarcerated and serving a lengthy sentence for a murder conviction. Petitioner could not do anything to either hasten respondent's release from prison or provide respondent with services. Respondent will not be eligible for release from prison until 2029 at the earliest, at which time the minor children will have attained adulthood. Under the circumstances, the trial court did not err in terminating respondent's parental rights.

To the extent respondent seeks to imply in his appellate pleadings that he received ineffective assistance of counsel, we decline to review this issue because it was not properly set forth in respondent's statement of questions involved and, therefore, is not preserved for review. MCR 7.212(C)(5); *City of Lansing V Hartsuff*, 213 Mich App 338, 351; 539 NW2d 781 (1995).

Affirmed.

/s/ E. Thomas Fitzgerald
/s/ Michael J. Talbot
/s/ Douglas B. Shapiro